

REMARKS

Claims 1-3, 5-7 and 10-43 are pending in the present application. New claims 42-43 are readable on the embodiment of FIGS. 1-13, and therefore are included among the elected claims of the present application.

Claims 6-7 and 21-23 depend from allowable generic claims, and therefore should also be allowable in the present application.

Turning to the Office Action:

Drawings

Objection has been made to the drawings in that the ribs recited in claim 40 allegedly are not shown in the drawings. However, the Amendment filed October 12, 2004 amended FIGS. 3 and 4 of the drawings to refer to the ribs 90,92 (which were shown in the application drawings as filed but not identified with reference numerals), and a corresponding amendment was made in the application text at page 6 between lines 14 and 15. Therefore, this basis for rejection should be withdrawn.

Specification

The specification has been amended at page 3 to implement the reference numeral correction suggested by the Examiner.

Claim Rejections - 35 USC 112

Claim 40 has been rejected as allegedly reciting new matter. However, the drawings of the application as filed, including particularly FIG. 3, clearly show the ribs extending outwardly from the closure skirt on opposite sides of the passage 68. The Amendment filed October 12, 2004 added reference numerals 90 and 92 to identify these ribs. However, the ribs themselves clearly were shown in the application drawings as filed,

so neither the amendment to the drawings, the corresponding amendment at page 6 of the text nor new claim 40 presents any question of new matter.

Claim Rejections - Prior Art

All elected claims of the present application are rejected over Nozawa 5,423,442 combined with Varlet 5,979,681. Reconsideration is respectfully requested. Simply stated, the disclosures of the Nozawa and Varlet patents are directed to completely differing types of closures, and are not combinable in the manner suggested by the Examiner.

Nozawa discloses a dispensing closure having a cover or lid 5 integrally hinged to a body or base 1. There is no child-resistant latch or the like between the lid and the base in Nozawa.

The Varlet reference discloses a completely different type of closure. Varlet FIG. 2a, for example, illustrates a closure 14 coupled to a transition piece 12 by breakable spurs 40. The transition piece 12 is attached to the upper portion of the container and is non-rotatable with respect to the container (column 3, lines 18-19 and 44-47). The closure 14, on the other hand, is threadably removable from the container neck finish (column 4, lines 28-44). Thus, in FIG. 1, the closure 14 rotatably engages the external threads 22 on the container neck finish while the transition piece 12 non-rotatably engages the shoulder portion 18 of the container. There is a pushtab 30 that must be engaged by the user's hand that simultaneously grasps the transition piece 12 to permit unthreading of the closure 14 and simultaneous rupture of the spurs 40 (column 4, lines 37-44). FIGS. 2b and 3b show T-shaped pushtabs 230. However, the mode of operation is the same, which is to say that the pushtab must be pushed inward to permit the closure to be unthreaded from

the container neck finish and simultaneously ruptured from the transition piece that itself does not move.

The disclosure of Varlet thus does not involve a closure that includes a lid integrally hinged to a base. The closure 14 or 214 in Varlet does not pivot with respect to the transition piece 12 or 212 between open and closed positions. In other words, the disclosures of Nozawa and Varlet are directed to completely differing types of closures and are not combinable in the manner suggested by the Examiner.

Amended Independent Claim 1, and Dependent Claims 2-3, 5-7 and 40-41

Amended independent claim 1 recites a child-resistant closure that includes a base having a dispensing opening and a peripheral skirt, and a lid integrally molded with the base and coupled by a hinge to the base so as to be pivotable about the hinge between a closed position adjacent to the dispensing opening and an open position spaced from the dispensing opening. One of the base and the lid has a latch arm resiliently extending from a periphery thereof diametrically opposite the hinge. The latch arm has a pair of oppositely extending tabs extending from a free end of the latch arm. The other of the base and the lid has an axial passage for receiving the latch arm and a pair of laterally spaced ledges in the passage for engagement by the tabs to lock the lid in the closed position. The latch arm is directly manually engageable by a user from a direction external to the closure to pivot the latch arm radially inwardly within the passage and release the tabs from the ledges so that the lid can be pivoted to the open position. Cam surfaces on the ledges, the tabs on the latch arm, or both, flex the resilient latch arm to snap the tabs over the ledges as the lid is pivoted toward the closed position.

As noted above, the disclosure of Varlet does not involve any pivoting of the closure 214 with respect to the transition element 212. To remove the closure 214, the closure 214 must be rotated with respect to the transition element 212. There is no discussion in Varlet regarding reapplication of the closure 214, or more particularly how the closure 214 would clear the pushtab 230 during such threaded reapplication of the closure. There certainly is nothing in Varlet to suggest provision of any cam surfaces on the arms 237 and/or the lateral extensions 234 to facilitate such threaded reapplication of closure 214. Thus, amended claim 1 clearly is allowable over Nozawa and Varlet, which are not really combinable as previously noted.

Claims 2-3, 5-7 and 40-41 are allowable both by reason of dependency from claim 1 and because of the additional novel limitations set forth therein. For example, claim 40 recites ribs 90, 92 (amended FIG. 3) on opposite sides of recess 68. These ribs help prevent unintended engagement of the latch element, such as by a child's teeth. Claim 41 recites indicia 94 (amended FIG. 1) on the lid to instruct a user to engage the latch arm. These features are neither disclosed nor suggested in the cited art.

Independent Claim 10 and Dependent Claims 11-13

Independent claim 10 recites a child-resistant dispensing closure having a base and a lid integrally molded with the base and coupled to the base by a pivot hinge. A T-shaped latch arm extends from a periphery of the lid and engages laterally spaced ledges in an axial passage on the base. The latch arm is directly manually engageable by a user from a radial direction external to the base to flex the latch arm radially inwardly into the passage and release the tabs from engagement with the ledges so that the lid can be pivoted to the open position with respect to the base. Claims 11-13 recite additional

details, including particularly the cam surfaces on the skirt recited in claim 12 for engagement with the tabs as the lid is pivoted toward the closed position. Although Varlet discloses a T-shaped latch element in FIG. 3b coupled to the closure 214, this disclosure is not in an environment even remotely related to a lid hinged to the base of a dispensing closure, which is again to say that the Varlet reference is not combinable with Nozawa to teach or suggest the subject matter of claim 10 and its dependent claims.

Independent Claim 16 with Dependent Claims 17-24

These claims are directed to a package that includes a child-resistant closure and a container. The claims are allowable for reasons discussed in detail above.

Independent Claim 25 and Dependent Claims 26-28

These claims are directed to a child-resistant closure and container package, and are allowable for reasons discussed in detail above.

New Independent Claim 42 and Dependent Claim 43

New independent claim 42 recites a child-resistant closure that includes a base having a dispensing opening and a peripheral skirt. A lid is molded integrally with the base and coupled by a hinge to the base so as to be pivotable around a hinge between a closed position adjacent to dispensing opening and an open position spaced from the dispensing opening. A latch arm has a first end resiliently coupled to one of the base and the lid. The latch arm extends from the first end to a second end that is wider than the first end. The other of the base and the lid has an axial passage for receiving the latch arm, a pair of laterally spaced ledges in the passage for engagement by the latch arm to lock the lid in the closed position, and radially facing angulated cam surfaces on the ledges. (This claim language is supported at page 5, line 8+ of the application text). Pivoting of the

lid toward the closed position brings the second end of the latch arm into engagement with the cam surfaces, resiliently flexing the latch arm radially until the second end of the latch arm registers with the ledges, whereupon resiliency of the latch arm snaps the latch arm between the ledges. The latch arm is directly manually engageable by a user from a radial direction external to the closure to pivot the latch arm radially inwardly within the passage and release the latch arm from the ledges so that the lid can be pivoted to the open position. Dependent claim 43 recites that the latch arm has a pair of laterally extending tabs adjacent to the second end of the arm for engagement with the cam surfaces as the lid is closed for snap receipt over the ledges in the closed position of the lid. As previously discussed in detail, the disclosures of Nozawa and Varlet are not combinable to suggest a closure having a lid pivotally coupled to a base by an integral hinge and having a child-resistant latch arm extending from the lid or the base. Furthermore, these references do not even remotely suggest cam surfaces to cam the latch arm as the lid is closed so that resiliency of the latch arm snaps the latch arm over the ledges as the lid becomes fully closed. Thus, new claims 42-43 clearly are allowable over the Nozawa and Varlet references.

It therefore is believed and respectfully submitted that all claims 1-3, 5-7, 10-13, 16-28 and 40-43 are allowable at this time, and favorable action is respectfully solicited.

Attention is directed to the Supplemental Information Disclosure Statement that accompanies this Amendment.

Please charge any fees associated with this submission to Account No. 15-0875 (Owens-Illinois).

Respectfully submitted,

REISING, ETHINGTON, BARNES,
KISSELLE, P.C.

By 

Robert C. Collins

Reg. No. 27,430

Telephone (248) 689-3500

Facsimile (248) 689-4071